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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/608,630	06/27/2003	Per Martinsson	930010-2206	8456

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NEW YORK, NY 10151

EXAMINER

PIZIALI, ANDREW T

ART UNIT	PAPER NUMBER
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1771

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/23/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/608,630

Applicant(s)

MARTINSSON ET AL.

Examiner

Andrew T. Piziali

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12, 14-26 and 28-48 is/are pending in the application.
- 4a) Of the above claim(s) 5, 7-12, 19, 21-26 and 29-47 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 14-18, 20, 28 and 48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/11/2006 has been entered.

Response to Supplemental Amendment

2. The supplemental amendment filed on 1/8/2007 has been entered.

Claim Rejections - 35 USC § 102/103

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 1-4, 6, 14-18, 20, 28 and 48 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 4,093,512 to Fleischer.

Regarding claims 1-4, 6, 14-18, 20, 28 and 48, Fleischer discloses a papermaking fabric multilayer filament having a core comprised of a monofilament yarn surrounded by a plurality of respective layers (see entire document including column 3, line 27 through column 4, line 50). The filament possesses a means for indicating a level of wear of an industrial fabric comprised thereof, because upon sufficient fiber wear the underlying layers of different material would be visible.

In the event that it is shown that the applied prior art does not disclose the claimed embodiment with sufficient specificity, the invention is obvious because the prior art specifically discloses the claimed constituents.

Regarding claims 2, 4, 16 and 18, considering that the core, cover layer, and resin coating layer are made from different materials, such as a Kevlar core, an asbestos or Dacron cover layer, and a nylon or acrylic resin layer (column 4, lines 22-50), the core and layers would be distinguishable from one another by their differing properties.

Regarding claims 3 and 17, the filament possesses a means for indicating a level of wear of an industrial fabric comprised thereof, because upon sufficient fiber wear the underlying layers of different material would be visible.

Regarding claims 4, 6, 18 and 20, considering that Kevlar, asbestos, nylon, Dacron, and acrylics are different colors, one of the differing properties between the core and the respective layers is color.

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Regarding claims 6 and 20, the core and respective layers would be visibly distinguishable from one another because one of the differing properties between the core and the respective layers is color.

Regarding claims 14 and 28, Fleischer discloses that the multilayer filament may comprise some or all of a multifilament yarn (column 3, lines 27-56).

Regarding claim 15-18, 20 and 28, Fleischer discloses that the multilayer fiber may be used to construct an endless industrial fabric (column 3, lines 27-56).

6. Claims 1-4, 6, 14 and 48 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over USPN 6,033,779 to Andrews.

Regarding claims 1-4, 6, 14 and 48, Andrews discloses a multilayer filament having a core comprised of a monofilament yarn surrounded by a plurality of respective layers (see entire document including column 2, lines 37-42, column 3, lines 31-43, and the Figures). The filament possesses a means for indicating a level of wear of an industrial fabric comprised thereof, because upon sufficient fiber wear the underlying layers of different material would be visible.

In the event that it is shown that the applied prior art does not disclose the claimed embodiment with sufficient specificity, the invention is obvious because the prior art specifically discloses the claimed constituents.

Regarding claims 2 and 4, considering that the core and the respective layers are made from different material, such as a fiberglass (or thermoplastic) core and stainless steel wire layers, the core and the layers would be distinguishable from one another by their differing properties.

Regarding claim 3, the filament possesses a means for indicating a level of wear of an industrial fabric comprised thereof, because upon sufficient fiber wear the underlying layers of different material would be visible.

Regarding claims 4 and 6, considering that fiberglass has a different color than stainless steel, one of the differing properties between the core and the respective layers is color.

Regarding claim 6, the core and respective layers would be visibly distinguishable from one another because one of the differing properties between the core and the respective layers is color.

Regarding claim 14, Andrews discloses that the multilayer filament may comprise some or all of a multifilament yarn (see Figures).

Claim Rejections - 35 USC § 103

7. Claims 1-4, 6, 14 and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,685,014 to Dapsalmon in view of anyone of USPN 3,800,019 to Parsey or USPN 6,653,943 to Lamb and further in view of anyone of USPN 4,651,514 to Collett, USPN 5,113,532 to Sutton, or USPN 6,033,779 to Andrews.

Regarding claims 1-4, 6, 14 and 48, Dapsalmon discloses a filament having a core (color A) surrounded by an outer layer (color B) (see entire document including column 1, line 63 through column 2, line 26). Dapsalmon does not specifically mention the use of a plurality of respective outer layers, but Parsey and Lamb each disclose that it is known in the wear detecting filament art that a core may be surrounded by a plurality of outer layers to indicate the degree of wear (see entire documents including column 2, lines 8-29 of Parsey and column 4, lines 20-35

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of Lamb). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the filament of Dapsalmon with a plurality of outer layers, because the plurality of outer layers allow for the indication of the degree of wear.

Dapsalmon does not appear to disclose if the core fiber comprises a monofilament yarn, therefore, it would have been obvious to look to the prior art for conventional core materials. Collett, Sutton, and Andrews each provide this conventional teaching showing that it is known in the cut resistant fiber art to use a core comprising a monofilament (see entire documents including column 2, lines 57-62 of Collett, column 3, lines 30-48 of Sutton, and column 3, lines 27-43 of Andrews). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the core comprise a monofilament motivated by the expectation of successfully practicing the invention of Dapsalmon and because it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability and desired characteristics.

Regarding claims 2-4 and 6, Dapsalmon discloses that the core and the outer layer may be distinguishable from one another by different color (column 1, line 63 through column 2, line 26).

Regarding claim 14, Dapsalmon discloses that the filament may comprise a multifilament core-spun yarn (column 3, lines 57-60).

Response to Arguments

8. Applicant's arguments filed 1/8/07 and 12/11/06 have been fully considered but they are not persuasive.

Applicant's attorney asserts that Andrews does not teach the concept of wear level indication because Andrews does not disclose a plurality of respective layers or a means for indicating a level of fabric wear. The examiner respectfully disagrees. Andrews discloses a multilayer filament having a core comprised of a monofilament yarn surrounded by a plurality of respective layers (see entire document including column 2, lines 37-42, column 3, lines 31-43, and the Figures). The filament possesses a means for indicating a level of wear of a papermaking fabric comprised thereof, because upon sufficient fiber wear the underlying layers of different material would be visible.

Applicant's attorney asserts that the fibers of Dapsalmon are incapable of use in a papermaking fabric because a fabric constructed with the yarns of Dapsalmon would not possess the necessary flexural rigidity, bending rigidity, hydrophobicity, or environmental safety. The examiner respectfully disagrees. The applicant has not shown, or attempted to show, that a papermaking fabric constructed with the yarns of Dapsalmon would necessarily not possess the necessary flexural rigidity, bending rigidity, hydrophobicity, or environmental safety. Absent a showing of evidence to support said allegations, applicant's argument is without merit.

Applicant's attorney asserts that "papermaking fabric" provides structure to the claimed article and appears to assert that the fabric must have a width of from 5 to over 33 feet, a length of from 40 to over 400 feet, and a weight from about 100 to over 3,000 pounds. The examiner respectfully disagrees. The features upon which applicant relies are not recited in the rejected

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claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. In addition, the specification does not disclose said limitations.


Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew T. Piziali whose telephone number is (571) 272-1541. The examiner can normally be reached on Monday-Friday (8:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

atp

 2/9/07
ANDREW PIZIALI
PRIMARY EXAMINER